



OFFICE *of the* ATTORNEY GENERAL  
GREG ABBOTT

March 11, 2003

Mr. Craig H. Smith  
Director  
Legal Services  
Texas Workers' Compensation Commission  
4000 South IH-35, MS-4D  
Austin, Texas 78704-7491

OR2003-1570

Dear Mr. Smith:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 177887.

The Texas Workers' Compensation Commission (the "Commission") received a request for the following categories information:

1. "All TWCC 69's issued for appointed DDE (Designated Doctor Exams)[.]"
2. "List any and all patients who were originally assigned to Dr. Reyna as their examining physician and were never examined by her but were examined by another examiner who completed and submitted a TWCC 69 sometime after her designation for the same date of injury. Please provide a copy of this TWCC 69."
3. "[A]ny documentation of notes, comments, or letters received from this physicians' office by telecommunication, fax, or mail."

In your initial letter to this office, you stated the Commission had no responsive information that it did not consider confidential. However, we received a subsequent letter in which you modify your position to reflect your acknowledgment that the Commission has some information responsive to category three of the request, which the Commission will release to the requestor. In both letters you sent to this office, you assert the information submitted for our review is excepted from disclosure under section 552.101 of the Government Code.

We have reviewed the representative sample of information you submitted and we have considered the exception you claim.<sup>1</sup>

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information made confidential by other statutes. You contend Attachments B, C, D, E, and F are excepted from disclosure under section 402.083 of the Labor Code. Section 402.083 provides that “[i]nformation in or derived from a claim file regarding an employee is confidential and may not be disclosed by the commission except as provided by this subtitle.” Labor Code § 402.083(a). This office has interpreted section 402.083 to protect only that “information in or derived from a claim file that explicitly or implicitly discloses the identities of employees who file workers’ compensation claims.” Open Records Decision No. 619 at 10 (1993). Explicit and implicit identifying information includes the following: claimant’s name, spouse’s name, social security number, home telephone number, home address, and claimant’s birth date. *Id.*

Sections 402.084 and 402.085 of the Labor Code provide for release of information on a claim only to certain enumerated persons or entities. *See* Labor Code §§ 402.084(a), (b); .085. Based on your representations and our review of the submitted information, we find no exceptions that would provide this requestor access to the submitted information under chapter 402 of the Government Code. Accordingly, as the information in Attachments B, C, D, E, and F explicitly or implicitly discloses the identities of employees filing workers’ compensation claims, the Commission must withhold this information, in its entirety, pursuant to section 552.101 of the Government Code in conjunction with section 402.083(a) of the Labor Code. *See* ORD 619. Because section 402.083 is dispositive, we do not address your other arguments.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.*

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<sup>1</sup> We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach and, therefore, does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

§ 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Christen Sorrell  
Assistant Attorney General  
Open Records Division

CHS/seg